

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

JOHN J. TAURO,

Plaintiff,

vs.

CAPITAL ONE FINANCIAL CORP.;
CAPITAL ONE NA; CAPITAL ONE
BANK NA (USA)

Defendants.

Civil Action No. 15-1136

Hon. Joy Flowers Conti
United States District Judge

Hon. Maureen P. Kelly
United States Magistrate Judge

**DEFENDANT CAPITAL ONE, N.A.'S AMENDED ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendant Capital One, N.A. ("Capital One"), by and through its undersigned counsel, files the within amended answer and affirmative defenses to Plaintiff's First Amended Complaint and states as follows:

ANSWER

Jurisdiction and Venue

1. The allegations of the first un-numbered paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are admitted.

2. The allegations of the second un-numbered paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

Parties

3. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of the third un-numbered paragraph and the allegations are therefore denied.

4. The allegations of the fourth un-numbered paragraph are directed to defendants other than Capital One, therefore, no response is required. To the extent a response is required, Capital One denies the allegations.

5. Capital One admits the allegations of the fifth un-numbered paragraph.

6. The allegations of the sixth un-numbered paragraph are directed to defendants other than Capital One, therefore, no response is required. To the extent a response is required, Capital One admits the allegations.

Factual Allegations

1. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 and the allegations are therefore denied.

2. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 and the allegations are therefore denied.

3. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 and the allegations are therefore denied.

4. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 and the allegations are therefore denied.

5. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 and the allegations are therefore denied.

6. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 and the allegations are therefore denied.

7. Capital One denies that it provided any verification of information in connection with Plaintiff's account. Responding further, upon information and belief, any reporting and/or verification of Plaintiff's account would have been done by Capital One Bank (USA), N.A.

Capital One is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 7 and the allegations are therefore denied.

8. Capital One denies that it is reporting any account of Plaintiff's. Responding further, upon information and belief, any reporting of Plaintiff's account would have been done by Capital One Bank (USA), N.A. Capital One is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 8 and the allegations are therefore denied.

9. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9 and the allegations are therefore denied.

10. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 and the allegations are therefore denied.

11. Capital One is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11 and the allegations are therefore denied.

12. Capital One is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 12 and the allegations are therefore denied.

13. Capital One denies that it is reporting any account of Plaintiff's. Responding further, upon information and belief, any reporting of Plaintiff's account would have been done by Capital One Bank (USA), N.A. Capital One is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 13 and the allegations are therefore denied.

14. Capital One is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 14 and the allegations are therefore denied.

15. Capital One denies the allegations of Paragraph 15.

16. The allegations of this paragraph are directed to defendants other than Capital One, therefore, no response is required. To the extent a response is required, Capital One is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 16 and the allegations are therefore denied.

17. Capital One admits only that the account was transferred to Capital One Bank (USA), N.A. Capital One denies the remaining allegations of Paragraph 17.

COUNT I – FCRA

18. Capital One incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

19. The allegations of Paragraph 19 constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

COUNT II – BREACH OF DUTY TO CORRECT

20. Capital One incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

21. The allegations of Paragraph 21 constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

COUNT III – DUTY TO REPORT DEFAULT DATE

22. Capital One incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

23. The allegations of Paragraph 23 constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

COUNT IV – DUTY TO REPORT DEFAULT DATE

24. Capital One incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

25. The allegations of Paragraph 25 are directed to defendants other than Capital One, therefore, no response is required. To the extent a response is required, the allegations are denied as conclusions of law.

26. Capital One denies any allegations contained in the WHEREFORE clause following Paragraph 25.

AFFIRMATIVE DEFENSES

27. Plaintiff has failed to state a plausible claim upon which relief may be granted.

28. Plaintiff has failed to dispute any alleged failure to report the default date in order to trigger Capital One's obligation to investigate the dispute, and therefore, he cannot state a claim under 15 U.S.C. § 1681s-2(a)(5)(A) or 15 U.S.C. § 1681s-2(b).

29. Any damages suffered by Plaintiff were caused by third-parties over whom Capital One has no control.

30. Plaintiff's claims are barred in whole or in part by the doctrines of waiver, estoppel and laches.

WHEREFORE, Defendant Capital One, N.A. requests that the Court enter judgment in its favor and against Plaintiff, and award Defendant its costs of suit.

Dated: March 9, 2016

Respectfully submitted,

/s/ Shawna J. English

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served this 9th day of March 2016 by the Court's CM/ECF Notification System upon the following:

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/s/ Shawna J. English